

Application No. 09/646,790
Response to Office Action dated Dec. 10, 2002

Docket No. 200-19

REMARKS

These remarks are in response to the Final Office Action dated December 10, 2002. This response is accompanied by a Request for Continued Examination (RCE) and a request for retroactive extension of time of three months, and authorization to charge Deposit Account No. 50-0951 the appropriate fees therefor.

At the time of the Office Action, claims 9-23 were pending in the application. In the Office Action, Claims 16, 17, and 21-23 were withdrawn from consideration. The drawings were disapproved. The specification was objected to under 35 U.S.C. §132. Claims 9-11, 14, 15, and 18-20 were rejected under 35 U.S.C. §102(a). Claims 12-13 were rejected under 35 U.S.C. §103(a). The objections and rejections are set out in more detail below.

Applicant respectfully requests that the Examiner reconsiders the claims previously presented in light of these remarks.

I. Objections to Claims

Claims 16, 17, and 21-23 were withdrawn from consideration by the Examiner as being directed to the non elected species II and the new Fig. 2. During the April 17, 2002 telephone call from the Examiner to Applicant's representative, the Examiner asserted that species II relates to the embodiment of the original figure 2 and claim 8. This assertion was confirmed in the Office Action of May 8, 2002. Claim 8 recited a machine readable label. Claim 1 was generic between species I and II. If an independent generic claim is held to be allowable, claims which are dependent on the generic claim should also be allowable. Thus, claims 16 and 17 are believed allowable because of their dependence upon new claim 9, which is generic between species I and II in the same manner as original claim 1.

Claims 21-23 are directed to the amended Figure 2, but these claims do not recite a machine readable label, which was the feature originally listed as comprising species II. Thus, claims 21-23 are not believed to read on to species II and should be considered for further examination.

Application No. 09/646,790
Response to Office Action dated Dec. 10, 2002

Docket No. 200-19

For the foregoing reasons, claims 16, 17 and 21-23 are considered to be improperly withdrawn from consideration. Further consideration of these claims is respectfully requested.

II. Objections to Drawings

The proposed drawing corrections were disapproved under 37 CFR §1.21(a)(6) because they were deemed introduce new matter into the drawings. In particular, the Office Action asserts that the original disclosure lacks support for the showing of two bottles in figure 2, and because the original claim 1 was asserted to recite four bottles, not two.

In response, Applicant notes that claim 1 as filed in the PCT application was presented in the European/PCT claim format. See MPEP §1824 and PCT rule 6.3. Claim 1 as filed in the PCT application recited "at least one exchangeable reservoir bottle". Thus, claim 1 as filed in the PCT application clearly recites at least one bottle which may be interchanged with a new bottle. Claims 7 and 10 as filed in the PCT application clearly contemplated the use of at least two bottles. The claims as filed in the PCT application were presented on entering the national phase with a cover sheet headed "Communication Regarding Substitute Sheets". The PCT application should be treated as a regularly filed national application, and thus new matter should be decided on the basis of the PCT application as filed.

The claims as filed on entry into the U.S. national phase, which were the claims as amended during International Preliminary Examination (filed with a cover sheet headed "Submission of Specification and Claims for Examination"), also recite "at least one reservoir bottle". After the words "characterized in that", the claim states that "at least two reservoir bottles...are provided". Support for this amendment was found in claim 7 as filed in the PCT application. These two bottles are not in addition to the "at least one reservoir bottle" previously listed, but are a further limitation of the requirement to have at least one bottle. A new reservoir bottle can be exchanged for one of the at least two

Application No. 09/846,790
Response to Office Action dated Dec. 10, 2002

Docket No. 200-19

bottles already present, and is not inserted in addition to the two bottles already present. Thus, the claim as presented on entry into the U.S. national phase and as amended during International Preliminary Examination also clearly recites "at least two reservoir bottles", not four.

As explained above, the application as filed did not require four bottles, and clearly contemplated the use of two bottles, as illustrated in amended figure 2. Thus, no new matter was introduced into the drawings in the amendment of figure 2. Reconsideration of the drawing objection is respectfully requested.

III. Objections to Specification

The disclosure was objected to under 35 U.S.C. §132 for introducing new matter into the disclosure. In particular, the Office Action stated that there was no support in the application as filed for two bottles, one filled with solvent and the other with pigment. To the contrary, Applicant notes that on page 3, line 5 to page 3, line 7, the specification states "[a] particular object of the invention is to prevent unwanted confusion between two reservoir bottles filled with distinct fluids due precisely to the use of simple bottles." Claim 1 of the PCT application as filed recites "at least one exchangeable reservoir bottle filled with a previously known quantity of a fluid, such a solvent or pigment. This disclosure can be read in conjunction with claims 7 and 10 of the PCT application as filed which state that there are two or more reservoir bottles with various fluids (claim 7), or that there are at least two holding devices for reservoir bottles with various fluids (claim 10). It is thus submitted that the use of two reservoir bottles containing different fluids, specifically solvent or pigment, is supported by the application as filed. Withdrawal of the objections to the specification is therefore respectfully requested.

IV. Claim Rejections on Art

Turning now to the rejections on art, claims 9-11, 14, 15, and 18-20 were rejected under 35 U.S.C. §102(a) as being anticipated by US Patent No. 5,788,388 to Cowger et al.

Application No. 09/646,790
Response to Office Action dated Dec. 10, 2002

Docket No. 200-19

("Cowger"). Claims 12-13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Cowger in view of US Patent No. 5,369,429 to Erickson ("Erickson"). Applicant submits that the features of claims 9 and 21 are not disclosed or suggested by the prior art.

Regarding the cited art, Applicant notes that Cowger does not relate to an ink jet printer but to an ink jet cartridge with ink level detection. Figure 1 of Cowger relates to a specific part of a printer, namely an ink jet cartridge. Notably, Cowger does not teach an intermediate container which is recharged. The item referred to as an intermediate container is a well 76, which is a part of the reservoir and is not comparable to the obviously separate intermediate container of the present claims. In the present claims, there are two separate reservoirs, the bottle and the intermediate reservoir. The two reservoirs are connected by a suction pipe and a pump, both arranged between the intermediate container and the bottle. The intermediate container and bottle cannot be portions of one and the same reservoir, (as is the case in Cowger) and instead are separate.

The suction pipe and pump further differentiate claim 9 over Cowger, because Cowger does not teach a suction pipe or pump arranged between an intermediate container and a bottle. To the contrary, in Cowger, the ink tube 35 connects the ink supply to the print head (col. 2, line 59).

For the foregoing reasons, the independent claims are believed patentable and in condition for allowance. The dependent claims are also believed allowable because of their dependence upon an allowable base claim, and because of the further features recited.

V. Conclusion

Applicant has made every effort to present claims which distinguish over the prior art, and it is believed that all claims are in condition for allowance. Nevertheless, Applicant invites the Examiner to call the undersigned if it is believed that a telephonic


Application No. 09/646,790
Response to Office Action dated Dec. 10, 2002

Docket No. 200-19

interview would expedite the prosecution of the application to an allowance. In view of the foregoing remarks, Applicant respectfully requests reconsideration and prompt allowance of the pending claims.

Respectfully submitted,

Date: 6-10-03


J. Rodman Steele, Jr.
Registration No. 25,931
Mark D. Passler
Registration No. 40,764
AKERMAN SENTERFITT
Post Office Box 3188
West Palm Beach, FL 33402-3188
Telephone: (561) 653-5000

Docket No. 200-19

FAX RECEIVED

JUN 10 2003

TECHNOLOGY CENTER 2800